

IN THE CIRCUIT COURT FOR FREDERICK COUNTY, MARYLAND

MIDDLETOWN VALLEY BANK,

Plaintiff,

v.

JUSTICE FARMS OF NORTH CAROLINA,
LLC, ET AL.

Defendants.

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Case No. C-10-CV-17-000131

**REQUEST FOR ENTRY OF JUDGMENT
AGAINST GARNISHEE PREMIER BANK, INC.**

Plaintiff/Judgment-Creditor, Middletown Valley Bank (the "Bank"), pursuant to Maryland Rule 2-645, hereby requests that the Court enter judgment in favor of the Bank and against the Garnishee, Premier Bank, Inc. (the "Garnishee"), in the amount of One Hundred Thirty-Three Thousand Eight Hundred Fifty-Two Dollars and Twenty-Three Cents (\$133,852.23) plus any amount that has come into the hands of the Garnishee after service of the Writs of Garnishment (the "Writs") and before the judgment is entered, and in support thereof states as follows:

1. On December 7, 2017, the Court entered a judgment in favor of the Bank and against James C. Justice, II (the "Judgment-Debtor") in the amounts of, among others, \$494,063.06 and \$656,569.59 (together, the "Judgment"). The Judgment remains unpaid and outstanding.

2. On February 28, 2019, upon the request of the Bank, the Court issued the two Writs against the Garnishee with respect to all property or credits owed by the Garnishee to the Judgment-Debtor.

3. On or about March 14, 2019, the Garnishee filed an Answer of Premier Bank, Inc. to Writ of Garnishment of Property Other than Wages (the "Answer") reporting that, at that time, the Garnishee was in possession of One Hundred Thirty-Three Thousand Eight Hundred Fifty-

Two Dollars and Twenty-Three Cents (\$133,852.23) in a bank account (the “Account”) belonging to the Judgment-Debtor and another unnamed person. The Garnishee further certified that it mailed copies of the Answer to the Bank and the Judgment-Debtor on March 14, 2019.

4. Pursuant to § 11-603(c) of the Courts and Judicial Proceedings Article, having answered the Writ as it did, the Garnishee was obligated to “hold the lesser of the amount of the judgment or the amount in the account subject to an entry of a court order releasing the property held by the garnishee or a final judgment in the garnishment proceeding.”

5. Moreover, when a deposit account is titled in the name of multiple parties, the account is presumed to be a joint account with the funds on deposit in the account being subject to withdrawal by any of the account holders. *Morgan Stanley & Co., Inc. v. Andrews*, 225 Md. App. 181, 193-84, 123 A.3d 640, 648 (2015). Unless that presumption is rebutted, as any one of the account holders has the right to withdraw all funds on deposit in the account, the funds on deposit in the account are subject to garnishment by a judgment creditor of any of the account holders. *Signature Bank v. HSBC Bank USA, N.A.*, 889 N.Y.S.2d 242, 244, 67 A.D.3d 917, 918 (2009). The presumption that the account is joint and that any one of the account holders has the right to withdraw all funds on deposit in it may be rebutted only by clear and convincing evidence. *Morgan Stanley & Co., Inc. v. Andrews*, 225 Md. App. at 197, 123 A.3d at 650.

6. Accordingly, despite the fact that the Account is in the name of the Judgment Debtor and another, it is nevertheless subject to garnishment.

7. Pursuant to Maryland Rule 2-645(g), once a garnishee has filed a timely answer to a writ of garnishment, and the judgment-debtor does not file a reply within thirty (30) days after its service, the Court may enter judgment upon request of the garnishee, judgment-debtor, or judgment-creditor. Pursuant to Maryland Rule 2-645(j), the judgment against the garnishee

“shall be for the amount admitted plus any amount that has come into the hands of the garnishee after service of the writ and before the judgment is entered, but not to exceed the amount owed under the creditor’s judgment against the debtor and enforcement costs.”

8. More than thirty (30) days have elapsed since the Garnishee filed its Answer.

9. No reply has been filed and no claim of exemption of the funds held by the Garnishee has been asserted by the Judgment-Debtor.

10. Furthermore, the Judgment-Debtor has not satisfied the Judgment.

11. The Garnishee admitted that it has possession of property of the Judgment-Debtor in the cumulative amount of One Hundred Thirty-Three Thousand Eight Hundred Fifty-Two Dollars and Twenty-Three Cents (\$133,852.23), which does not exceed the amount owed under the Judgment.

12. Considering the foregoing, this Court should enter judgment in favor of the Bank and against the Garnishee in the amount of One Hundred Thirty-Three Thousand Eight Hundred Fifty-Two Dollars and Twenty-Three Cents (\$133,852.23) plus any amount that has come into the hands of the Garnishee after service of the Writs and before the judgment is entered.

WHEREFORE, pursuant to Maryland Rule 2-645, Plaintiff/Judgment-Creditor, Middletown Valley Bank, respectfully requests that judgment be entered in its favor and against the Garnishee, Premier Bank, Inc., in the amount of One Hundred Thirty-Three Thousand Eight Hundred Fifty-Two Dollars and Twenty-Three Cents (\$133,852.23) plus any amount that has come into the hands of the Garnishee after service of the Writs and before the judgment is entered.

Respectfully Submitted,

Dated: April 16, 2019

/s/ Joshua D. Bradley

Joshua D. Bradley
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Attorneys for Middletown Valley Bank

CERTIFICATE PURSUANT TO MD. RULE 20-201

I HEREBY CERTIFY that the foregoing Request for Entry of Judgment Against Garnishee Premier Bank, Inc. and proposed order do not contain any restricted information.

/s/ Joshua D. Bradley
Joshua D. Bradley

CERTIFICATE OF SERVICE

I hereby certify on this 16th day of April, 2019, that a copy of the foregoing Request for Entry of Judgment Against Garnishee Premier Bank, Inc., and proposed order was served by first-class mail, postage prepaid, on:

James C. Justice, II
208 Dwyer Lane
Lewisburg, WV 24901

Daniel J. Konrad
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611 Third Avenue
Huntington, WV 25701
Counsel for Garnishee

/s/ Joshua D. Bradley _____
Joshua D. Bradley

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